

37 Am. Jur. 2d Fraud and Deceit § 111

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Fraud and Deceit

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IV. False Representations

F. Intent to Deceive, or to Induce Reliance; Knowledge of Falsity

1. Necessity of Intent

§ 111. Necessity of intent that representation be communicated to, deceive, and be acted upon by complainant

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Fraud](#)  4

Trial Strategy

[Real Estate Broker's Liability for Misrepresentation of Income, Earnings, or Profits from Property Sold, 59 Am. Jur. Proof of Facts 3d 511](#)

[Liability of Seller in Residential Real Estate Transaction for Misrepresentation Under "As Is" Contract, 59 Am. Jur. Proof of Facts 3d 463](#)

A representation, even though knowingly false, does not constitute grounds for an action of deceit unless it is made with the intent to be communicated to the persons, or to a class of persons, who act upon it to their prejudice.¹ In other words, in order for a defendant to be liable for fraud, he or she must intend that a particular representation or concealment be relied upon by a specific person or persons.² The intent-to-induce-reliance element of a fraud does not depend on traditional privity and may be established by a "reason to expect" reliance.³

If it does not appear that representations were made to the complainant, or with any expectation that they would come to the complainant's knowledge, or with any belief or reason to believe that they would induce the complainant to act in the manner in question, there is no liability.⁴

CUMULATIVE SUPPLEMENT

Cases:

Under Kansas law, a key element of a fraud claim is a misrepresentation made to the injured party; a fraud claim is not actionable if the misrepresentation was made to a third party. [Atkins v. Heavy Petroleum Partners, LLC](#), 86 F. Supp. 3d 1188 (D. Kan. 2015).

[END OF SUPPLEMENT]

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Footnotes

- 1 [Baker v. R.T. Vanderbilt Co. Inc.](#), 260 A.D.2d 750, 688 N.Y.S.2d 726 (3d Dep't 1999).
To state a claim for fraudulent misrepresentation under Michigan law, a plaintiff must allege that the defendant's misrepresentation was made with the intent or knowledge that it would be communicated to the plaintiff with the intent to deceive him or her. [Bennett v. MIS Corp.](#), 607 F.3d 1076 (6th Cir. 2010).
- 2 [Shapiro v. Sutherland](#), 64 Cal. App. 4th 1534, 76 Cal. Rptr. 2d 101 (2d Dist. 1998).
One who makes a fraudulent misrepresentation is subject to liability to the persons or class of persons whom he or she intends or has reason to expect to act or to refrain from action in reliance upon the misrepresentation, for pecuniary loss suffered by them through their justifiable reliance in the type of transaction in which he or she intends or has reason to expect their conduct to be influenced. [Restatement Second, Torts § 531](#).
- 3 [Ernst & Young, L.L.P. v. Pacific Mut. Life Ins. Co.](#), 51 S.W.3d 573 (Tex. 2001).
- 4 [Western Union Telegraph Co. v. Schriver](#), 141 F. 538 (C.C.A. 8th Cir. 1905).

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